

§ 1090 102 Continuing obligations

If, upon the suspension or termination of any or all provisions of this part or any amendment thereto, there are any obligations thereunder the final accrual or ascertainment of which requires further acts by any person (including the market administrator), such further acts shall be performed notwithstanding such suspension or termination

§ 1090 103 Liquidation

Upon the suspension or termination of any or all provisions of this part the market administrator, or such other liquidating agent as the Secretary may designate shall if so directed by the Secretary, liquidate the business of the market administrator's office dispose of all property in his possession or control, including accounts receivable, and execute and deliver all assignments or other instruments necessary or appropriate to effectuate any such disposition If a liquidating agent is so designated all assets, books and records of the market administrator shall be transferred promptly to such liquidating agent If, upon such liquidation the funds on hand exceed the amounts required to pay outstanding obligations of the office of the market administrator and to pay necessary expenses of liquidating and distribution, such excess shall be distributed to contributing handlers and producers in an equitable manner

MISCELLANEOUS PROVISIONS

§ 1090 110 Agents

The Secretary may, by designation in writing name any officer or employee of the United States to act as his agent and representative in connection with any of the provisions of this part

§ 1090 111 Separability of provisions

If any provisions of this part or its application to any person or circumstances is held invalid, the application of such provision and of the remaining provisions of this part to other persons or circumstances shall not be affected thereby

PART 1094—MILK IN NEW ORLEANS, LA, MARKETING AREA

Subpart—Order Regulating Handling

DEFINITIONS

Sec	
1094 1	Act
1094 2	Secretary

Sec

1094 3	Department of Agriculture
1094 4	Cooperative association
1094 5	Person
1094 6	New Orleans marketing area
1094 7	Route
1094 8	Distributing plant
1094 9	Supply plant
1094 10	Pool plant
1094 11	Nonpool plant
1094 12	Handler
1094 13	Producer-handler
1094 14	Producer
1094 15	Producer milk
1094 16	Other source milk
1094 17	Fluid milk product
1094 18	Chicago butter price
1094 19	Base and excess milk

MARKET ADMINISTRATOR

1094 20	Designation
1094 21	Powers
1094 22	Duties

REPORTS RECORDS AND FACILITIES

1094 30	Reports of receipts and utilization
1094 31	Other reports
1094 32	Producer-handler reports
1094 33	Exempt handler reports
1094 34	Records and facilities
1094 35	Retention of records

CLASSIFICATION OF MILK

1094 40	Skim milk and butterfat to be classified
1094 41	Classes of utilization
1094 42	Responsibility of handlers
1094 43	Transfers
1094 45	Computation of skim milk and butterfat in each class
1094 46	Allocation of skim milk classified
1094 47	Allocation of butterfat classified
1094 48	Computation of total producer milk in each class

MINIMUM PRICES

1094 50	Basic formula price
1094 51	Class prices
1094 52	Butterfat differentials to handlers
1094 53	Location differentials to handlers
1094 54	Rate of compensatory payments
1094 55	Use of equivalent prices

APPLICATION OF PROVISIONS

1094 60	Producer-handler exemption
1094 61	Exempt handler
1094 62	Obligations of handler operating a nonpool distributing plant
1094 63	Plants subject to other Federal orders

DETERMINATION OF PRICES TO PRODUCERS

1094 70	Computation of value of producer milk
1094 71	Computation of the 40 percent value of all producer milk
1094 72	Uniform price
1094 73	Uniform excess milk price
1094 74	Uniform base milk price

Sec	
1094 75	Producer butterfat differential
1094 76	Location differentials to producers
1094 77	Notification of handlers

PAYMENTS

1094 80	Time and method of payments to producers
1094 81	Producer-settlement fund
1094 82	Payments to the producer-settlement fund
1094 83	Payments out of the producer-settlement fund
1094 84	Adjusting of accounts
1094 85	Marketing services
1094 86	Expense of administration
1094 87	Termination of obligations

DETERMINATION OF BASE

1094 90	Base-operating period
1094 91	Base-forming period
1094 92	Determination of daily base
1094 93	Base rules
1094 94	Announcement of established bases

EFFECTIVE TIME SUSPENSION OR TERMINATION

1094 100	Effective time
1094 101	Suspension or termination
1094 102	Continuing obligations
1094 103	Liquidation

MISCELLANEOUS PROVISIONS

1094 110	Agents
1094 111	Separability of provisions

AUTHORITY §§ 1094 1 to 1094 111 issued under secs 1-19 48 Stat 81 as amended 7 USC 601-674

SOURCE §§ 1094 1 to 1094 111 appear at 25 FR 778 Jan 30 1960 except as otherwise noted Redesignated at 26 FR 12752 Dec 30 1961

DEFINITIONS

§ 1094 1 Act

Act means Public Act No 10 73d Congress, as amended and as re-enacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 USC 601 et seq)

§ 1094 2 Secretary

Secretary means the Secretary of Agriculture or any officer or employee of the United States who is authorized to exercise the powers or to perform the duties of the Secretary of Agriculture

§ 1094 3 Department of Agriculture

Department of Agriculture means the United States Department of Agriculture or such other Federal agency as may be authorized to perform the price reporting functions specified in this part

§ 1094 4 Cooperative association

Cooperative association means any cooperative association of producers which the Secretary determines

(a) To be qualified under the provisions of the Act of Congress of February 18 1932 as amended, known as the "Capper-Volstead Act", and

(b) To have and to be exercising full authority in the sale of milk of its members

§ 1094 5 Person

Person means any individual, partnership, corporation, association or other business unit

§ 1094 6 New Orleans marketing area

New Orleans marketing area herein after referred to as the marketing area means all territory, including incorporated municipalities within Jefferson Lafourche Orleans Plaquemines St Bernard, St Charles, and Terrebonne Parishes all in the State of Louisiana

§ 1094 7 Route

Route means a delivery (including delivery by a vendor or sale from a plant or plant store) of any fluid milk product other than a delivery in bulk form to any milk processing plant

§ 1094 8 Distributing plant

Distributing plant means any plant at which fluid milk products eligible for distribution in the marketing area under a Grade A label are processed and packaged and from which fluid milk products are disposed of on a route(s) in the marketing area

§ 1094 9 Supply plant

Supply plant means any plant at which milk eligible for distribution in the marketing area under a Grade A label, is received from dairy farmers and from which fluid milk products are moved to a distributing plant

§ 1094 10 Pool plant

Pool plant means

(a) A distributing plant, other than that of a producer-handler or one described in § 1094 61 or § 1094 63(a) from which during the month

(1) Disposition in the marketing area of fluid milk products on routes is 20 percent or more of receipts from dairy farmers, cooperatives in their capacities as handlers pursuant to § 1094 12(d) and supply plants and

(2) Total disposition of fluid milk products on routes is 50 percent or more

of receipts from dairy farmers cooperatives in their capacities as handlers pursuant to § 1094 12 (d) and supply plants,

(b) A supply plant from which during the month an amount equal to 50 percent or more of its receipts of milk from dairy farmers which is eligible for distribution in the marketing area under a Grade A label is moved to and received at a pool plant(s) described in paragraph (a) of this section, and

(c) Any supply plant that was a pool plant during each of the months of September through November immediately preceding shall continue to be a pool plant the following month of December unless written notice to the contrary is filed by the handler with the market administrator on or before the first day of such month, and any supply plant that was a pool plant pursuant to paragraph (b) of this section, during each of the months of September through November and also during either the month of December or the month of January immediately preceding shall continue to be a pool plant the following months of January or February through August as the case may be, unless the operator notifies the market administrator in writing before the first day of any such month of its intention to withdraw such plant as a pool plant in which case such plant shall thereafter be a nonpool plant except in any month it qualifies as a supply plant pursuant to paragraph (b) of this section

[25 F.R. 778 Jan 30 1960 as amended at 26 F.R. 7959 Aug 25 1961]

§ 1094 11 Nonpool plant

Nonpool plant means any milk manufacturing processing or bottling plant other than a pool plant

§ 1094 12 Handler

Handler means

(a) Any person in his capacity as the operator of a pool plant(s), or

(b) The operator of any nonpool distributing plant with route distribution in the area, or

(c) A cooperative association with respect to milk of producers diverted for the account of such association from a pool plant to a nonpool plant in accordance with § 1094 14, or

(d) Any cooperative association with respect to the milk of producers which it causes to be delivered directly from the farm to the pool plant of another handler

in a tank truck owned and operated by, under contract to or under the control of such association, unless the association and the transferee handler both notify the market administrator in writing prior to the time of delivery that the transferee handler is to be held the responsible handler for such milk. Such milk shall be deemed to have been received by the association from producers at a pool plant at the location of the pool plant at which such milk is physically received

[25 F.R. 778 Jan 30 1960 as amended at 26 F.R. 7959 Aug 25 1961]

§ 1094 13 Producer-handler

Producer-handler means a dairy farmer who operates a distributing plant at which no fluid milk or fluid milk products are received during the month except his own production or transfers from a pool plant(s)

§ 1094 14 Producer

Producer means any person, other than a producer-handler who produces milk eligible for distribution in the marketing area under a Grade A label which milk is received during the month at a pool plant or is diverted by a handler to a pool plant or a nonpool plant for the account of such handler, subject to the following conditions

(a) During January through August a handler may divert the daily production of a producer for any number of days

(b) During other months a handler may divert the daily production of a producer for not more than 10 days

(c) Milk delivered for the account of a handler to a nonpool plant for more than ten days during September through December shall not be considered as producer milk during the whole period of its delivery to a nonpool plant

(d) The milk so diverted shall be deemed to have been received at a pool plant at the location of the plant from which diverted

§ 1094 15 Producer milk

Producer milk means milk received at a pool plant directly from producers, or diverted pursuant to § 1094 14

§ 1094 16 Other source milk

Other source milk means all skim milk and butterfat contained in

(a) Receipts of fluid milk products during the month except

(1) Fluid milk products received from pool plants,

(2) Milk received from a cooperative association in its capacity as a handler pursuant to § 1094 12(d), and

(3) Producer milk

(b) Products, other than fluid milk products from any source (including those produced at the plant) which are reprocessed or converted to another product in the plant during the month or for which other utilization or disposition is not established pursuant to § 1094 34

[26 F.R. 7959 Aug 25 1961]

§ 1094 17 Fluid milk product

Fluid milk product means all skim milk (including reconstituted skim milk) and butterfat in the form of milk, skim milk, buttermilk concentrated milk or skim milk fortified milk or skim milk flavored milk flavored milk drinks (including eggnog) yoghurt cream (other than frozen storage cream) cultured sour cream, sour cream products labeled Grade A and any mixture of cream and milk or skim milk in fluid form (other than ice cream mixes other frozen dessert mixes and sterilized products contained in hermetically sealed containers)

[26 F.R. 7959 Aug 25 1961]

§ 1094 18 Chicago butter price

Chicago butter price means the simple average as computed by the market administrator, of the daily wholesale selling prices (using the midpoint of any range as one price) per pound of 92-score bulk creamery butter at Chicago as reported during the month by the Department of Agriculture

§ 1094 19 Base and excess milk

(a) Base milk means milk received at pool plants from a producer during any of the months of the base-operating period of each year which is not in excess of such producer's daily average base computed pursuant to § 1094 92 multiplied by the number of days in such month

(b) Excess milk means milk received at pool plant(s) from a producer during any of the months of the base-operating period of each year in excess of such producer's base milk

MARKET ADMINISTRATOR

§ 1094 20 Designation

The agency for the administration of this part shall be a market administrator, selected by the Secretary, who shall

be entitled to such compensation as may be determined by and shall be subject to removal at the discretion of the Secretary

§ 1094 21 Powers

The market administrator shall have the following powers with respect to this part

(a) To administer its terms and provisions,

(b) To make rules and regulations to effectuate its terms and provisions,

(c) To receive investigate and report to the Secretary complaints of violations, and

(d) To recommend amendments to the Secretary

§ 1094 22 Duties

The market administrator shall perform all duties necessary to administer the terms and provisions of this part including but not limited to the following

(a) Within 45 days following the date on which he enters upon his duties or such lesser period as may be prescribed by the Secretary execute and deliver to the Secretary a bond effective as of the date on which he enters upon his duties, and conditioned upon the faithful performance of such duties, in an amount and with surety thereon satisfactory to the Secretary,

(b) Employ and fix the compensation of such persons as may be necessary to enable him to administer its terms and provisions

(c) Obtain a bond in a reasonable amount and with reasonable surety thereon covering each employee who handles funds entrusted to the market administrator,

(d) Pay out of the funds received pursuant to § 1094 86

(1) The cost of his bond and of the bonds of his employees

(2) His own compensation and

(3) All other expenses (except those incurred under § 1094 85) necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties

(e) Keep such books and records as will clearly reflect the transactions provided for in this section, and upon request by the Secretary surrender the same to such other persons as the Secretary may designate,

(f) Publicly disclose to handlers and producers at his discretion unless otherwise directed by the Secretary the name

of any handler who, after the date on which he is required to perform such acts has not made reports pursuant to §§ 1094 30 and 1094 31, or payments pursuant to §§ 1094 80, 1094 82, 1094 84, 1094 85 and 1094 86

(g) Submit his books and records to examination by the Secretary and furnish such information and reports as may be requested by the Secretary,

(h) Prepare and make available for the benefit of producers consumers and handlers, general statistics and information concerning the operation of this part which do not reveal confidential information,

(i) Verify all reports and payments of each handler by audit of the records of such handler or any other handler or person to whom skim milk and butterfat are transferred, or by such other means as are necessary,

(j) On or before the 11th day after the end of each month, report to each cooperative association which so requests, the percentage of producer milk delivered by members of such association which was used in each class by each handler receiving such milk For the purpose of this report the milk so received shall be prorated to each class in accordance with the total utilization of producer milk by such handler

(k) On or before the date specified, publicly announce and mail to each handler at his last known address a notice of the following

(1) The 5th day of each month, the Class I milk price and the Class I butterfat differential both for the current month and the Class II milk price and the Class II butterfat differential, both for the preceding month,

(2) The 11th day of each month, the applicable uniform price computed pursuant to §§ 1094 72 through 1094 74 and the butterfat differential computed pursuant to § 1094 75 both for the preceding month

REPORTS RECORDS AND FACILITIES

§ 1094 30 Reports of receipts and utilization

On or before the 5th day of each month each handler who operates a pool plant(s) each handler (other than a producer-handler or the operator of a plant exempt pursuant to §§ 1094 61 or 1094 63) who operates a nonpool distributing plant and any cooperative association with respect to milk for which it is

a handler pursuant to § 1094 12 (c) or (d) shall report for the preceding month to the market administrator in the detail and on forms prescribed by the market administrator as follows

(a) The quantities of skim milk and butterfat contained in

(1) Producer milk and for each month of the base-operating period, the total quantities of base and excess milk received, in lieu thereof, the operator of a nonpool distributing plant shall report aggregate receipts from dairy farmers qualified to become producers if such a plant were a pool plant,

(2) Milk received from a cooperative association in its capacity as a handler pursuant to § 1094 12(d),

(3) Fluid milk products received from other pool plants,

(4) Other source milk, and

(5) Inventories of fluid milk products on hand at the beginning and end of the month, and

(b) The utilization of all skim milk and butterfat required to be reported pursuant to paragraph (a) of this section including separate statements with respect to

(1) Disposition of fluid milk products on routes within the marketing area from plants described in §§ 1094 62 and 1094 63 and from other plants for which the market administrator requires such information as a basis for determination of status or obligations and

(2) Class I milk outside the marketing area,

(c) Such other information with respect to sources and utilization of skim milk and butterfat as the market administrator may prescribe

[25 F.R. 778 Jan 30 1960 as amended at 26 F.R. 7959 Aug 25 1961]

§ 1094 31 Other reports

(a) On or before the 20th day of each month each handler operating a pool plant(s) and each cooperative association which is a handler pursuant to § 1094 12 (c) or (d) shall report their producer payroll for the preceding month which shall show for each producer

(1) His name and address,

(2) The total pounds of milk received from such producers and for the base-operating period the total pounds of base and excess milk

(3) The number of days on which milk was received from such producer if less than a full calendar month,

(4) The average butterfat content of such milk, and

(5) The net amount of such handler's payment, together with the price paid and the amount and nature of any deductions

(b) Each handler who received producer milk for which payment is to be made to a cooperative association pursuant to § 1094 80(b) shall report to such cooperative association with respect to each such producer, as follows

(1) On or before the 25th day of each month, the total pounds of milk received during the first 15 days of the month

(2) On or before the 7th day after the end of each month,

(i) The daily and total pounds of milk received during the month with separate totals for base and excess milk for the base-operating period and the average butterfat test thereof and

(ii) The amount, rate and nature of any deductions

(c) Each handler (other than a producer-handler or one described in §§ 1094 61 or 1094 63) operating a non-pool distributing plant shall report his payments to dairy farmers qualified to be producers if such plant were a pool plant, showing for each such dairy farmer

(1) The pounds of milk received,

(2) The average butterfat content thereof and

(3) The date and net amount of payment to such dairy farmer with a statement of the prices, deductions and charges used in computing such payment and the nature of each

[25 F.R. 778 Jan 30 1960 as amended at 26 F.R. 7959 Aug 25 1961]

§ 1094 32 Producer-handler reports

Each producer-handler shall make reports to the market administrator at such time and in such manner as the market administrator shall prescribe

§ 1094 33 Exempt handler reports

Each handler exempt pursuant to § 1094 61 shall report to the market administrator his disposition of fluid milk products on routes within the marketing area at such time and in such manner as the market administrator shall prescribe

§ 1094 34 Records and facilities

Each handler shall maintain and make available to the market administrator during the usual hours of business such accounts and records of his operations

and such facilities as are necessary for the market administrator to verify or establish the correct data for each month with respect to

(a) The receipt and utilization of all skim milk and butterfat handled in any form

(b) The weights and tests for butterfat and other content of all products handled,

(c) The pounds of skim milk and butterfat contained in or represented by all items of products on hand at the beginning and end of each month and

(d) Payments to producers including any deductions authorized by producers and disbursement of money so deducted

§ 1094 35 Retention of records

All books and records required under this part to be made available to the market administrator shall be retained by the handler for a period of three years to begin at the end of the month to which such books and records pertain *Provided* That if within such three-year period the market administrator notifies the handler in writing that the retention of such books and records or of specified books and records is necessary in connection with a proceeding under section 8c(15)(A) of the act or a court action specified in such notice the handler shall retain such books and records or specified books and records until further written notifications from the market administrator. In either case the market administrator shall give further written notification to the handler promptly upon the termination of the litigation or when the records are no longer necessary in connection therewith

CLASSIFICATION OF MILK

§ 1094 40 Skim milk and butterfat to be classified

The skim milk and butterfat to be reported for pool plants pursuant to § 1094 30 shall be classified each month by the market administrator pursuant to the provisions of §§ 1094 41 through 1094 47

§ 1094 41 Classes of utilization

Subject to the conditions set forth in §§ 1094 42 through 1094 47 the classes of utilization shall be as follows

(a) *Class I milk* Class I milk shall be all skim milk and butterfat

(1) Disposed of in the form of fluid milk products except those classified as

Class II milk pursuant to (b) (3), (4) and (5) of this section *Provided*, That if any fluid milk products is fortified by the addition of nonfat milk solids the extent of classification of such products as Class I milk shall be an equal volume of the unmodified product of the same butterfat test and (2) Not specifically accounted for as Class II milk

(b) *Class II milk* Class II milk shall be all skim milk and butterfat

(1) Used to produce any product other than a fluid milk product,

(2) Contained in inventories of fluid milk products on hand at the end of the month

(3) Disposed of as dumped skim milk provided the market administrator is notified in advance and given opportunity to verify such dumping

(4) Disposed of as skim milk and used for livestock feed, and

(5) That portion of fluid milk products not classified as Class I pursuant to paragraph (a) (1) of this section,

(6) In shrinkage not to exceed an amount calculated as follows

(i) 0.5 percent of skim milk and butterfat, respectively received from producers (except diverted milk) and disposed of in bulk lots as whole milk skim milk or cream

(ii) 1.5 percent of skim milk and butterfat respectively, received in bulk (including milk received from a cooperative association in its capacity as a handler pursuant to § 1094 12(d) and disposed of in a form other than bulk lots of milk skim milk and cream

(iii) 2.0 percent of skim milk and butterfat respectively received directly from producers and disposed of in a form other than bulk lots of whole milk skim milk or cream

[25 FR 778 Jan 30 1960 as amended at 26 FR 7960 Aug 25 1961]

§ 1094 42 Responsibility of handlers

All skim milk and butterfat to be classified pursuant to this part shall be classified as Class I milk, unless the handler who first receives such skim milk and butterfat establishes to the satisfaction of the market administrator that it should be classified as Class II milk

§ 1094 43 Transfers

Skim milk and butterfat transferred or diverted during the month as milk, skim milk or cream in bulk from a pool plant (including milk transferred by a

cooperative association in its capacity as a handler pursuant to § 1094 12(d) to

(a) The pool plant of another handler except as provided in paragraph (f) of this section shall be classified as Class I unless Class II utilization is indicated by the operators of both plants in their reports submitted pursuant to § 1094 30 and

(1) The receiving plant has utilization in such class of equivalent amounts of skim milk and butterfat, respectively and

(2) Such skim milk and butterfat shall be classified so as to allocate to producer milk the greatest possible total Class I utilization in the two plants

(b) A plant operated by a producer-handler shall be Class I milk,

(c) A nonpool plant (except pursuant to paragraph (d) of this section) located more than 350 miles by the shortest highway distance from City Hall in New Orleans Louisiana, as determined by the market administrator shall be Class I milk unless claimed and transferred in the form of cream in bulk to such a nonpool plant which does not dispose of milk or cream for consumption in fluid form

(d) A nonpool plant that is a pool plant (a fully regulated plant) under another order issued pursuant to the Act shall be classified pursuant to the utilization assigned pursuant to the classification and allocation procedure of the other Federal order *Provided* That in the event such nonpool plant receives skim milk and butterfat from two or more plants regulated by order(s) other than that under which it is regulated the amount classified in each class shall be a pro rata share of such receipts allocated to that class

(e) A nonpool plant, except as specified in paragraphs (b) (c) and (d) of this section shall be Class I milk unless

(1) The transferring handler claims Class II use on his report for the month

(2) The operator of the nonpool plant maintains books and records which are made available for examination upon request by the market administrator and which are adequate for verification of such Class II use, and

(3) The skim milk and butterfat respectively received at the nonpool plant during the month from a pool plant(s) (except the amounts pursuant to subparagraph (4) of this paragraph and the similar provision of such other order)

and from a plant(s) at which milk is priced pursuant to another order issued pursuant to the Act does not exceed the skim milk and butterfat respectively resulting from the following computation

(i) Determine the skim milk and butterfat respectively in Class II (as defined pursuant to § 1094 41(b)(1) at such nonpool plant during the month

(ii) Subtract the overage or add the actual shrinkage of skim milk and butterfat respectively, in the total fluid receipts physically received at such nonpool plant but not to exceed 2 percent of such total receipts during the month,

(iii) Add the increases or subtract the decreases of skim milk and butterfat, respectively in the inventory of fluid milk products at the end of the month at such nonpool plant as compared with that at the beginning of the month

(iv) Add the skim milk and butterfat respectively in milk skim milk or cream transferred in bulk from such nonpool plant to a plant at which milk is priced under this or another order issued pursuant to the Act which is allocated to other than Class I under the applicable order provisions at the transferee plant but excluding any such transfers that may be classified under such other order pursuant to provisions similar to subparagraph (4) of this paragraph,

(v) Add the skim milk and butterfat, respectively, in fluid bulk cream transferred from such nonpool plant to a second nonpool plant which is not in excess of Class II (pursuant to § 1094 (b)(1)) processed in such second nonpool plant plus the bulk fluid cream shipped therefrom to other nonpool plants which do not dispose of milk or cream for consumption in fluid form *Provided*, That the second nonpool plant meets the conditions of subparagraph (2) of this paragraph, and

(vi) Subtract the skim milk and butterfat respectively, received at such nonpool plant from any source(s) other than that which has been approved by a governmental agency as a source(s) of fluid Grade A milk products

In the event that the remaining skim milk and butterfat, respectively, computed pursuant to subdivision (vi) of this subparagraph is less than the skim milk and butterfat respectively, received at such nonpool plant from a pool plant(s) and from a plant(s) at which milk is

priced under another order issued pursuant to the Act the difference shall be assigned pro rata to each pool plant (in accordance with receipts of skim milk and butterfat respectively from all plants regulated pursuant to the Act) and shall be classified as Class I milk

(4) If such nonpool plant transfers skim milk or butterfat as milk, skim or cream in bulk to a pool plant, the amount so transferred which is not in excess of receipts during the month at such nonpool plant from pool plants shall be excluded from receipts within the meaning of subparagraph (3) of this paragraph, and shall be classified pursuant to paragraph (a) of this section as if moved directly to the second pool plant with Class II utilization indicated *Provided* That if the classification limitations provided in (a) of this section results in any skim milk or butterfat being classified as Class I from pool plants of two or more handlers such classification shall be shared pro rata between such handlers unless at or before the time of reporting signed statements by operators of such plants indicate agreement on a different sharing of such Class I classification and

(f) Unless a different utilization is claimed by both handlers pursuant to paragraph (a) of this section skim milk and butterfat transferred to the pool plant of another handler by a cooperative association in its capacity as the operator of a pool plant or a handler pursuant to § 1094 12(d) shall be classified pro rata to the respective amounts thereof remaining in each class for such months at the pool plant of the receiving handler after the computations pursuant to § 1094 46(g) and the corresponding step of § 1094 47

[25 FR 778 Jan 30 1960 as amended at 26 FR 7960 Aug 25 1961]

§ 1094 45 Computation of skim milk and butterfat in each class

For each month the market administrator shall correct for mathematical and obvious errors the monthly report submitted by each handler pursuant to § 1094 30 and compute the total pounds of skim milk and butterfat respectively in Class I and Class II at all pool plants of such handler *Provided*, That the skim milk contained in any product utilized, produced or disposed of by the handler during the month shall be considered to be an amount equivalent to the nonfat milk solids contained in such

product plus all of the water originally associated with such solids
[25 FR 778 Jan 30 1960 as amended at 26 FR 7960 Aug 25 1961]

§ 1094 46 Allocation of skim milk classified

The pounds of skim milk remaining after making the following computations shall be the pounds of skim milk in each class allocated to producer milk

(a) Subtract from the total pounds of skim milk in Class II the pounds of skim milk in shrinkage computed pursuant to § 1094 41(b) (6)

(b) Subtract from the total pounds of skim milk remaining in each class in series beginning with Class II, the pounds of skim milk in other source milk except as specified in paragraphs (c) and (d) of this section,

(c) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk received from pool plants regulated pursuant to other orders issued pursuant to the Act

(d) Subtract from the pounds of skim milk in Class I the pounds of skim milk in other source milk receipts of fluid milk products in consumer packages from a nonpool distributing plant described in § 1094 62

(e) Subtract from the pounds of skim milk remaining in Class II in excess of the pounds of skim milk contained in inventory of fluid milk products at the end of the month the pounds of skim milk in inventory of such products at the beginning of the month *Provided* That if the pounds of skim milk in such inventory are greater than the remaining pounds of skim milk in Class II the difference shall be subtracted from the remaining pounds of skim milk in Class I

(f) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received from other pool plants (including a cooperative association in its capacity as a handler pursuant to § 1094 12(d)) in accordance with the classification of such milk pursuant to § 1094 43(a)

(g) Add to the remaining pounds of skim milk in Class II the pounds subtracted pursuant to paragraph (a) of this section

(h) Subtract pro rata from the pounds of skim milk remaining in each class the pounds of skim milk to be classified pursuant to § 1094 43(f), and

(i) If the remaining pounds of skim milk in both classes exceed the pounds of skim milk in milk received from producers subtract such excess from the remaining pounds of skim milk in each class in series beginning with Class II Any amount so subtracted shall be known as overage

[26 FR 7960 Aug 25 1961]

§ 1094 47 Allocation of butterfat classified

Allocate the pounds of butterfat in each class to producer milk in a manner similar to that prescribed for skim milk in § 1094 46

§ 1094 48 Computation of total producer milk in each class

The amounts computed pursuant to §§ 1094 46 and 1094 47 will be combined into one total for each class and the weighted average butterfat content of producer milk in each class determined

MINIMUM PRICES

§ 1094 50 Basic formula price

The highest of the prices computed pursuant to paragraphs (a) (b) and (c) of this section rounded to the nearest whole cent, shall be known as the basic formula price

(a) Divide the average of the basic (or field) prices per hundredweight reported to have been paid or to be paid for milk of 35 percent butterfat content received from farmers during the month at the following plants or places for which prices have been reported to the market administrator or to the Department of Agriculture by 35 and multiply by 40

Present Operator and Location

Borden Company Mount Pleasant Mich
Borden Company New London Wis
Borden Company Orfordville Wis
Carnation Company Oconomowoc Wis
Carnation Company Richland Center Wis
Carnation Company Sparta Mich
Pet Milk Company Belleville Wis
Pet Milk Company Coopersville Mich
Pet Milk Company New Glarus Wis
Pet Milk Company Wayland Mich
White House Milk Company Manitowoc Wis
White House Milk Company West Bend Wis

(b) The price computed by adding together any plus values computed pursuant to subparagraphs (1) and (2) of this paragraph

(1) Multiply the Chicago butter price by 48,

(2) Deduct five cents from the simple average as computed by the market administrator of the weighted averages of carlot prices per pound of nonfat dry milk solids spray and roller process, respectively, for human consumption f o b manufacturing plants in the Chicago area, as published for the period from the 26th day of the preceding month through the 25th day of the current month by the Department of Agriculture and multiply by 75,

(c) The average of the basic (or field) prices reported to have been paid or to be paid per hundredweight for milk of 40 percent butterfat content received from farmers during the month at the following plants or places for which prices have been reported to the market administrator or to the Department of Agriculture

Present Operator and Location

Pet Milk Company Kosciusko Mississippi
Borden Food Company Starkville Mississippi
McClendon Cheese Company Newton Mississippi
Wilson and Company Macon Mississippi

§ 1094 51 Class prices

Subject to the provisions of §§ 1094 52 and 1094 53 the class prices per hundredweight of milk containing 40 percent butterfat shall be determined for each month as follows

(a) *Class I milk price* The Class I milk price shall be the basic formula price for the preceding month plus \$2 48 during the months of March through June and \$2 68 in all other months plus or minus a supply-demand adjustment calculated for each month pursuant to subparagraphs (1) through (6) of this paragraph *Provided* That the Class I price for any month of September October or November shall not be lower by more than 5 cents than such price for the immediately preceding month and for any month of April May or June of each year shall not be higher by more than 5 cents than such price for the immediately preceding month

(1) Divide the total gross volume of Class I milk of all pool handlers (excluding interhandler transfers) by total receipts of producer milk in each of the following periods and round to one-tenth of one percent

(i) The two-year period ending with the second preceding month

(ii) The two-month period ending with the second preceding month and

(iii) The two-month period ending with the second preceding month and the same period of each of the two preceding years

(2) Divide the utilization percentage for the three two-month periods computed pursuant to subparagraph (1) (iii) by the utilization percentage for the two-year period computed pursuant to subparagraph (1) (i) Adjust the resulting seasonal ratio" as follows

(1) Add to the seasonal ratio a similar computation for each of the 11 preceding periods

(ii) Divide 12 by the sum thus obtained,

(iii) Divide the seasonal ratio by the quotient obtained in subdivision (ii)

(3) Compute the standard utilization percentage by multiplying the adjusted seasonal ratio of (2) (iii) by 74 5

(4) Subtract from the current utilization percentage computed pursuant to subparagraph (1) (i) the standard utilization percentage for the month computed pursuant to subparagraph (3) of this paragraph and round to the nearest full percentage point The result is the deviation percentage

(5) Compute a sum of the deviation percentages for the current and two preceding months and after excluding any deviation percentage which is in the opposite direction from the deviation percentage of a more recent month compute a sum from the remaining deviation percentages which excludes any amount by which any of such deviation percentages exceeds any of such deviation percentages for a more recent month

(6) Compute the number of cents which is 15 times the sum of the plus or minus deviations as the case may be computed pursuant to subparagraph (5) of this paragraph round to the nearest even full cent and increase or decrease respectively, the Class I price by such sum if it exceeds plus or minus four cents *Provided* That the plus or minus adjustment shall not exceed 45 cents

(b) *Class II milk price* The Class II milk price shall be the price determined pursuant to § 1094 50(c) plus 28 5 cents during the months February through August and plus 38 5 cents during all other months *Provided* That in no case shall such price exceed the basic formula price by more than 13 5 cents

[25 FR 778 Jan 30 1960 as amended at 26 FR 7960 Aug 25 1961]

§ 1094 52 Butterfat differentials to handlers

For milk containing more or less than 40 percent butterfat the class prices calculated pursuant to § 1094 51 shall be increased or decreased respectively, for each one-tenth percent butterfat at the appropriate rate determined as follows

(a) *Class I price* Multiply the Chicago butter price for the previous month by 0 12

(b) *Class II price* Multiply the Chicago butter price for the month by 0 11

§ 1094 53 Location differentials to handlers

(a) For that milk which is received from producers at a pool plant more than 50 miles by the shortest toll-free highway distance as determined by the market administrator from the nearer of the City Hall in New Orleans or the Terrebonne Parish Courthouse in Houma, Louisiana, and utilized as Class I the price specified in § 1094 51(a) shall be reduced at the rate set forth in the following schedule according to the location of the pool plant where such milk is received from producers

	<i>Rate per hundredweight (cents)</i>
Zones measured from the nearer of the City Hall in New Orleans or the Terrebonne Parish Courthouse in Houma, Louisiana (miles)	
More than 50 but not more than 60...	13 5
Each additional 10 miles or fraction thereof.....	1 5

(b) For (1) milk received from producers at a pool plant more than 50 miles by the shortest toll-free highway distance as determined by the market administrator from the nearer of the city hall in New Orleans or the Terrebonne Parish Courthouse, Houma, Louisiana, and classified as Class II and (2) for milk received from producers at a pool plant 50 miles or less from the basing points in New Orleans or Houma and classified as Class II pursuant to § 1094 41(b) (3) (4) and (6) shall be reduced by 13 5 cents

(c) The market administrator shall determine and publicly announce the zone location of each plant of each handler according to the shortest toll-free highway distance between such plant and the city hall in New Orleans or the Terrebonne Parish Courthouse in Houma. The market administrator shall notify the handler on or before the first

day of any month in which a change in a plant location zone will apply

(d) For the purpose of this section, the skim milk and butterfat classified as Class I during each month shall be considered to have been first received from producers at such handler's plant located in the 0-50 mile zone then that skim milk and butterfat which was received from producers at such handler's plant in series beginning with plants located in the zone nearest to New Orleans or Houma

[25 F.R. 778 Jan 30 1960 as amended at 26 F.R. 7961 Aug 25 1961]

§ 1094 54 Rate of compensatory payments

The rate of a compensatory payment per hundredweight shall be calculated as follows except that the rate shall be zero in any month in which total market deliveries by producers are less than 110 percent of market Class I utilization (excluding duplications) in all plants qualified as pool plants

(a) Subtract the Class II milk price adjusted by the Class II butterfat differential from the Class I milk price adjusted by the Class I butterfat differential and adjusted by the location differential rate set forth in § 1094 53 for the location of the plant at which the milk was received from dairy farmers

§ 1094 55 Use of equivalent prices

If for any reason a price specified in this part for use in computing class prices or for other purposes is not reported or published in the manner described in this part the market administrator shall use a price determined by the secretary to be equivalent to or comparable with the price which is specified

APPLICATION OF PROVISIONS

§ 1094 60 Producer handler exemption

A producer-handler shall be exempt from all provisions of this part except §§ 1094 32 1094 34, and 1094 35

§ 1094 61 Exempt handler

A handler who operates a nonpool distributing plant located outside the marketing area from which an average of less than 200 pounds of Class I milk per day is disposed of during the month in the marketing area on route(s) shall be exempt from all provisions of this part except §§ 1094 33 through 1094 35

§ 1094 62 Obligations of handler operating a nonpool distributing plant

In lieu of payments required pursuant to §§ 1094 80 through 1094 85, each handler other than a producer-handler or one exempt pursuant to §§ 1094 61 or 1094 63 who operates during the month a nonpool distributing plant shall pay to the market administrator for deposit in the producer settlement fund and the administrative assessment fund, as the case may be as follows

(a) If such handler so elects in writing at the time of reporting pursuant to § 1094 30 the amounts computed as follows

(1) On or before the 13th day after the end of the month for the producer-settlement fund an amount equal to the difference between the value of the Class I milk disposed of during the month on routes in the marketing area at the applicable Class I price for the month and the value of such milk at the Class II price and

(2) On or before the 13th day after the end of the month as his pro rata share of expense of administration the rate specified in § 1094 86 with respect to Class I milk disposed of on routes in the marketing area, or

(b) Except as the handler may elect the option pursuant to paragraph (a) of this section he shall pay the amounts as follows

(1) On or before the 25th day after the end of the month for the producer-settlement fund the amount specified in paragraph (a) (1) of this section or any plus amount resulting from the following computation whichever is less

(i) Compute an amount equal to the value of milk which would be computed pursuant to § 1094 70 for milk received from dairy farmers at such plant for such month if such plant had been a pool plant and

(ii) Deduct the gross payments made by the handler to dairy farmers for milk received at such plant for such month. Gross payments to be included in this computation shall be limited to cash payments made to the dairy farmer or his assignee on or before the date of the report pursuant to § 1094 31(c) plus the value of any supplies or as evidenced by a delivery ticket signed by the dairy farmer and

(2) On or before the 13th day after the end of the month as his pro rata share of the expense of administration

an amount equal to that which would have been computed pursuant to § 1094 86 had such plant been a pool plant

§ 1094 63 Plants subject to other Federal orders

The handler operating a plant specified in paragraphs (a) or (b) of this section shall be exempt from all provisions of this part except §§ 1094 30(b)(1) 1094 34 and 1094 35

(a) Any distributing plant which would be subject to the classification and pricing provisions of another order issued pursuant to the act unless a greater volume of Class I milk is disposed of during the month on routes in the New Orleans marketing area than in the marketing area defined in such other order,

(b) Any supply plant which would be subject to the classification and pricing provision of another order issued pursuant to the Act unless such plant qualified as a pool plant pursuant to § 1094 10(c)

DETERMINATION OF PRICES TO PRODUCERS

§ 1094 70 Computation of value of producer milk

The value of producer milk received during the month by each handler at pool plants shall be computed by the market administrator as follows

(a) Multiply the quantity of producer milk in each class, as computed pursuant to § 1094 48 by the applicable respective class prices (adjusted pursuant to §§ 1094 52 and 1094 53),

(b) Add an amount computed by multiplying the skim milk and butterfat subtracted from Class I milk pursuant to § 1094 46(b) and the corresponding step of § 1094 47 by the rate of compensatory payment as determined pursuant to § 1094 54 for the nearest plant(s) from which an equivalent amount of other source milk was received in the form of fluid milk products,

(c) Add an amount computed by multiplying the skim milk and butterfat subtracted from Class I milk pursuant to § 1094 46(d) and the corresponding step of § 1094 47 which is not classified and priced as Class I milk under the provisions of the other Federal order by the rate of compensatory payment as determined pursuant to § 1094 54

(d) Add an amount obtained by multiplying by the difference between the applicable Class II price for the pre-

ceding month and the applicable Class I price for the current month the lesser of

(1) The skim milk and butterfat subtracted from Class I pursuant to § 1094 46(e) and the corresponding step of § 1094 47, or

(2) The skim milk and butterfat (except shrinkage) in producer milk classified as Class II and in milk allocated to Class II pursuant to paragraph (h) of § 1094 46 both for the preceding month

(e) Add an amount computed by multiplying the rate of compensatory payment as determined pursuant to § 1094 54 by the skim milk and butterfat subtracted from Class I pursuant to § 1094 46(e) and the corresponding step in § 1094 47 which is in excess of the sum of

(1) The skim milk and butterfat for which an adjustment was made pursuant to paragraph (d) and

(2) The skim milk and butterfat subtracted from Class II pursuant to § 1094 46(c) and the corresponding step in § 1094 47 for the previous month and which was classified and priced as Class I under another Federal order and

(f) Add the amounts computed by multiplying the skim milk and butterfat in overage deducted from each class pursuant to § 1094 46(i) and the corresponding step of § 1094 47 by the applicable class price

[25 F.R. 778 Jan 30 1960 as amended at 26 F.R. 7961 Aug 25 1961]

§ 1094 71 Computation of the 40 per cent value of all producer milk

For each month the market administrator shall compute the 40 percent value of all producer milk, as follows

(a) Combine into one total the individual values of milk of all handlers computed pursuant to § 1094 70 except those of handlers who failed to make payments required pursuant to § 1094 80 through § 1094 82 for the preceding month

(b) Add, if the weighted average butterfat test of all producers milk represented in paragraph (a) of this section is less than 40 percent or subtract if the weighted average butterfat test of such milk is more than 40 percent an amount computed by multiplying the total pounds of butterfat represented by the difference of such average butterfat test from 40 percent by the butterfat differential provided in § 1094 75 multiplied by 10

(c) Add the aggregate of the values of allowable location adjustments to producers pursuant to § 1094 76, and

(d) Add not less than one-half of the unobligated balance in the producer-settlement fund

§ 1094 72 Uniform price

For each of the months of the base-forming period and the month of August the uniform price per hundredweight for milk containing 40 percent butterfat received from producers at pool plants shall be computed as follows

(a) Divide the amount computed pursuant to § 1094 71 by the hundredweight of milk received from all producers,

(b) Subtract not less than 4 cents nor more than 5 cents

§ 1094 73 Uniform excess milk price

For each of the months of the base-operating period the price for excess milk containing 40 percent butterfat shall be computed as follows

(a) Multiply the hundredweight of excess milk not in excess of the total quantity of Class II milk represented by the values included in § 1094 71(a) by the price for 40 percent Class II milk pursuant to § 1094 51(b)

(b) Multiply the hundredweight of any excess milk not included in the computation described in paragraph (a) of this section by the price for 40 percent Class I utilization pursuant to § 1094 51(a) and

(c) Combine into one total the values computed pursuant to paragraphs (a) and (b) of this section divide by the hundredweight of excess milk and round to the nearest cent

§ 1094 74 Uniform base milk price

For each of the months of the base-operating period the price for base milk containing 40 percent butterfat received from producers at pool plants shall be computed as follows

(a) Multiply the total pounds of excess milk by the excess price for the month

(b) Subtract the total value arrived at in paragraph (a) of this section from the total 40 percent value of all producer milk arrived at in § 1094 71,

(c) Divide the resultant value by the total hundredweight of base milk, and

(d) Subtract not less than 4 cents nor more than 5 cents

§ 1094 75 Producer butterfat differential

In making payments pursuant to § 1094 80 the uniform price, base price and excess price shall be increased or decreased for each one-tenth of one percent of butterfat content in the milk received from each producer or a co-operative association above or below 4 0 percent as the case may be by a butterfat differential equal to the average of the butterfat differentials pursuant to § 1094 52 weighted by the pounds of butterfat in producer milk in each class, rounded to the nearest tenth cent

§ 1094 76 Location differentials to producers

In making payments for milk pursuant to paragraphs (a) (c) and (d) of § 1094 80 a handler may deduct (a) From the uniform price pursuant to § 1094 72 or the uniform price for base milk pursuant to § 1094 74 the rates specified in § 1094 53(a) applicable to the location of the pool plant at which such milk was received and (b) from the uniform excess milk price the rate specified in § 1094 53(b) applicable to the location of the pool plant at which such milk was received

§ 1094 77 Notification of handlers

On or before the 11th day after the end of each month, the market administrator shall mail to each handler who submitted the report(s) prescribed in § 1094 30 at his last known address a statement showing

(a) The amount and value of his producer milk in each class and the totals thereof

(b) The amounts and value of his base and excess milk respectively

(c) The uniform price(s) computed pursuant to §§ 1094 72 to 1094 74 and the butterfat differential computed pursuant to § 1094 75

(d) The amount due such handler from the producer-settlement fund or the amount to be paid by such handler to the producer-settlement fund as the case may be and

(e) The totals of the minimum amounts to be paid by such handler pursuant to §§ 1094 85 and 1094 86

PAYMENTS

§ 1094 80 Time and method of payments to producers

(a) Except as provided in paragraph (c) of this section each handler shall

make payment to each producer from whom milk is received during the month as follows

(1) On or before the last day of each month to each producer, who did not discontinue shipping milk to such handler before the 25th day of the month an amount equal to not less than the Class II milk price for the preceding month multiplied by the hundredweight of milk received from such producer during the first 15 days of the month less proper deductions authorized by such producer to be made from payments due pursuant to this paragraph,

(2) On or before the 15th day of the following month each handler shall make payment to each producer for milk which was received from him during the month at not less than the uniform price(s) computed pursuant to § 1094 72 or to §§ 1094 73 and 1094 74 as the case may be subject to the following adjustments

(i) The butterfat differential pursuant to § 1094 75

(ii) The location differential pursuant to § 1094 76

(iii) Less payments made to such producer pursuant to subparagraph (1) of this paragraph

(iv) Less marketing services deductions made pursuant to § 1094 85

(v) Plus or minus adjustments for errors made in previous payments to such producer

(vi) Less deductions authorized in writing by such producer, and

(vii) If by such date such handler has not received full payment from the market administrator pursuant to § 1094 83 for such month he may reduce pro rata his payments to producers by not more than the amount of such underpayment. Payments to producers shall be completed thereafter not later than the date for making payments pursuant to this paragraph next following after the receipt of the balance due from the market administrator

(b) Each handler shall furnish to the producer the following information

(1) On or before the 25th day of the month the pounds of milk received from the producer during the first 15 days of such month,

(2) On or before the 15th day of the following month (i) the pounds of milk received from the producer each day and the total for the month, together with the butterfat content of such milk (ii) the pounds of base and excess milk

received (iii) the amount (or rate) and nature of deductions made from payments and (iv) the amount and nature of payments due pursuant to § 1094 84

(c) Upon receipt of a written request from a cooperative association which the Secretary determines is authorized by its members to collect payment for their milk and receipt of a written promise to reimburse the handler the amount of any actual loss incurred by him because of any claim on the part of the association each handler

(1) Shall pay to the cooperative association, in lieu of payments pursuant to paragraph (a) of this section on or before the 2d day prior to the date on which payments are due individual producers, an amount equal to not less than the amount due such certified members as determined pursuant to paragraph (a) of this section

(2) Report to the cooperative association on or before the 25th day of the month, the pounds of milk received from each member of the cooperative association during the first 15 days of such month and on or before the 7th day of the following month to the cooperative association for its individual members the following information (i) The pounds of milk received each day and the total for the month together with the butterfat content of such milk (ii) the pounds of base and excess milk received (iii) the amount (or rate) and nature of deductions made from payments and (iv) the amount and nature of payments due pursuant to § 1094 84

The foregoing payment and submission of information shall be made with respect to milk of each producer whom the cooperative association certifies is a member which is received on and after the first day of the month next following receipt of such certification through the last day of the month next preceding receipt of notice from the cooperative association of a termination of membership or until the original request is rescinded in writing by the association

(3) A copy of each such request promise to reimburse and a certified list of members shall be filed simultaneously with the market administrator by the association and shall be subject to verification at his discretion through audit of the records of the cooperative association pertaining thereto Exceptions if any shall be made by written notice to the market administrator and shall be subject to his determination

(d) Each handler shall make payment to a cooperative association for milk received from such association in its capacity as a handler pursuant to § 1094 12(a) and § 1094 12(d) as follows

(1) On or before the 22d day of each month an amount equal to not less than the Class II price for the preceding month multiplied by the hundredweight of milk received from any cooperative association during the first 15 days of the current month and

(2) On or before the 12th day after the end of each month in which it was received at not less than the applicable class prices plus the amount due the market administrator from the cooperative association on such milk pursuant to § 1094 86 less amounts paid pursuant to subparagraph (1) of this paragraph [25 F.R. 778 Jan 30 1960 as amended at 26 F.R. 7961 Aug 25 1961]

§ 1094 81 Producer-settlement fund

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to §§ 1094 62 1094 - 82, and 1094 84 and out of which he shall make all payments pursuant to §§ 1094 83 and 1094 84 *Provided That*, any payments due to any handler shall be offset by any payments due from such handler

§ 1094 82 Payments to the producer-settlement fund

On or before the 12th day after the end of each month, each handler shall pay to the market administrator any amount by which the value of his producer milk as computed pursuant to § 1094 70 for such month, is greater than the amount owed by him for such milk at the appropriate uniform price(s) adjusted by the producer butterfat and location differentials

§ 1094 83 Payment out of the producer-settlement fund

On or before the 13th day after the end of each month the market administrator shall pay to each handler any amount by which the total value of his producer milk computed pursuant to § 1094 70 for such month is less than the amount owed by him for such milk at the appropriate uniform price(s) adjusted by the producer butterfat and location differentials If at such time the balance in the producer-settlement fund

is insufficient to make all payments pursuant to this section the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the appropriate funds are available

§ 1094 84 Adjustment of accounts

Whenever audit by the market administrator of any reports books records or accounts or other verification discloses errors resulting in moneys due (a) the market administrator from a handler (b) a handler from the market administrator or (c) any producer or cooperative association from a handler the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payments set forth in the provisions under which such error occurred

§ 1094 85 Marketing services

(a) Except as set forth in paragraph (b) of this section each handler in making payments to producers for milk (other than milk of his own production) pursuant to § 1094 80 shall deduct 5 cents per hundredweight or such amount not exceeding 5 cents per hundredweight as may be prescribed by the Secretary and shall pay such deductions to the market administrator on or before the 15th day after the end of the month. Such money shall be used by the market administrator to provide market information and to check the accuracy of the testing and weighing of their milk for producers who are not receiving such service from a cooperative association,

(b) In the case of producers who are members of a cooperative association which the Secretary has determined is actually performing the services set forth in paragraph (a) of this section each handler shall (in lieu of the deduction specified in paragraph (a) of this section) make such deductions from the payments to be made to such producers as may be authorized by the membership agreement or marketing contract between such cooperative association and such producers and on or before the 13th day after the end of each month pay such deductions to the cooperative association of which such producers are members furnishing a statement showing the amount of any such deductions and the amount of milk for which such deduction was computed for each producer

§ 1094 86 Expense of administration

As his pro rata share of the expense of administration of this part, each handler shall pay to the market administrator on or before the 15th day after the end of the month 4 cents per hundredweight or such lesser amount as the Secretary may from time to time, prescribe to be announced by the market administrator on or before the 11th day after the end of such month with respect to all skim milk and butterfat received by such handler during such delivery period from producers including that received from such handler's own farm production

§ 1094 87 Termination of obligations

The provisions of this section shall apply to any obligations under this part for the payment of money irrespective of when such obligation arose

(a) The obligation of any handler to pay money required to be paid under the terms of this part shall except as provided in paragraphs (b) and (c) of this section terminate two years after the last day of the calendar month during which the market administrator receives the handler's utilization report on the milk involved in such obligation, unless within such two-year period the market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall be complete upon mailing to the handler's last known address and it shall contain but need not be limited to the following information

(1) The amount of the obligation,

(2) The month(s) during which the milk with respect to which the obligation exists was received or handled and

(3) If the obligation is payable to one or more producers or to an association of producers the name of such producer(s) or association of producers, or if the obligation is payable to the market administrator, the account for which it is to be paid

(b) If a handler fails or refuses, with respect to any obligation under this part to make available to the market administrator or his representatives all books and records required by this part to be made available the market administrator may, within the two-year period provided for in paragraph (a) of this section notify the handler in writing of such failure or refusal. If the market administrator so notifies a handler, the said two-year period with respect to such

obligation shall not begin to run until the first day of the calendar month following the month during which all such books and records pertaining to such obligation are made available to the market administrator or his representative

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section a handler's obligation under this part to pay money shall not be terminated with respect to any transaction involving fraud or willful concealment of a fact material to the obligation, on the part of the handler against whom the obligation is sought to be imposed

(d) Any obligation on the part of the market administrator to pay a handler any money which such handler claims to be due him under the terms of this part shall terminate two years after the end of the calendar month during which the payment (including deduction or set-off by the market administrator) was made by the handler if a refund on such payment is claimed, unless such handler within the applicable period of time, files, pursuant to section 8c(15) (A) of the Act a petition claiming such money

DETERMINATION OF BASE

§ 1094 90 Base operating period

The base operating period for 1960 shall be the months March through July and the months of February through July thereafter

§ 1094 91 Base forming period

The base-forming period for bases operative in 1960 shall be October 1959 through February 1960 and for bases operative in subsequent years shall be the months of September through January immediately preceding the base-operating period

§ 1094 92 Determination of daily base

The daily base of each producer shall be calculated by the market administrator as follows Divide the total pounds of milk received by all handlers of pool plants from such producer during the base-forming period by the number of days in such period

§ 1094 93 Base rules

The following rules shall apply in connection with the establishment and assignment of bases

(a) Subject to the provisions of paragraph (b) of this section the market administrator shall assign a base as cal-

culated pursuant to § 1094 92 to each person for whose account producer milk was delivered to pool plants during the months of the base-forming period *Provided* That in the case of a pool plant which did not qualify as a pool plant during each month of the base-forming period, but which is a pool plant during any of the months of the base-operating period bases shall be assigned to each person for whose account milk was delivered to such plant at the time such plant becomes a pool plant in the same manner as if such plant were a pool plant during the base-forming period

(b) An entire base shall be transferred from a person holding such base to any other person effective as of the end of any month during which an application for such transfer is received by the market administrator such application to be signed by the base-holder or his heirs, and by the person to whom such base is to be transferred *Provided* That if a base is held jointly the entire base shall be transferable only upon the receipt of such application signed by all joint holders or their heirs and by the person to whom such base is to be transferred

§ 1094 94 Announcement of established bases

On or before March 1 of each year, the market administrator shall notify each producer and the handler receiving milk from such producer, of the daily base established by such producer except that for March 1960 the announcement of such bases shall be on or before March 31 1960

EFFECTIVE TIME, SUSPENSION OR TERMINATION

§ 1094 100 Effective time

The provisions of this part, or any amendment thereto shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated

§ 1094 101 Suspension or termination

The Secretary shall, whenever he finds that any or all provisions of this part or any amendment thereto, obstruct or do not tend to effectuate the declared policy of the Act, terminate or suspend the operation of any or all provisions of this part or any amendment thereto

§ 1094 102 Continuing obligations

If upon the suspension or termination of any or all provisions of this part, or

any amendment thereto, there are any obligations thereunder the final accrual or ascertainment of which requires further acts by any person (including the market administrator) such further acts shall be performed notwithstanding such suspension or termination

§ 1094 103 Liquidation

Upon the suspension or termination of any or all of the provisions of this part, the market administrator, or such other liquidating agent as the Secretary may designate shall if so directed by the Secretary liquidate the business of the market administrator's office, dispose of all property in his possession or control, including accounts receivable, and execute and deliver all assignments or other instruments necessary or appropriate to effectuate any such disposition. If a liquidating agent is so designated all assets books and records of the market administrator shall be transferred promptly to such liquidating agent. If, upon such liquidation the funds on hand exceed the amounts required to pay outstanding obligations of the office of the market administrator and to pay necessary expenses of liquidating and distribution, such excess shall be distributed to contributing handlers and producers in an equitable manner.

MISCELLANEOUS PROVISIONS

§ 1094 110 Agents

The Secretary may, by designation in writing, name any officer or employee of the United States to act as his agent and representative in connection with any of the provisions of this part.

§ 1094 111 Separability of provisions

If any provision of this part, or its application to any person or circumstances is held invalid, the application of such provision and of the remaining provisions of this part, to other persons or circumstances shall not be affected thereby.

PART 1095—MILK IN THE LOUISVILLE-LEXINGTON, KENTUCKY, MARKETING AREA

Subpart—Order Regulating Handling

DEFINITIONS

Sec	
1095 1	Act
1095 2	Secretary
1095 3	Department
1095 4	Person

Sec	
1095 5	Cooperative association
1095 6	Louisville-Lexington marketing area
1095 7	City plant
1095 8	Country plant
1095 9	Pool plant
1095 10	Nonpool plant
1095 11	Handler
1095 12	Producer
1095 13	Producer milk
1095 14	Other source milk
1095 15	Producer-handler
1095 16	Chicago butter price
1095 17	Fluid milk product
1095 18	Route

MARKET ADMINISTRATOR

1095 20	Designation
1095 21	Powers
1095 22	Duties

REPORTS RECORDS AND FACILITIES

1095 30	Reports of receipts and utilization
1095 31	Payroll reports
1095 32	Other reports
1095 33	Records and facilities
1095 34	Retention of records

CLASSIFICATION

1095 40	Skim milk and butterfat to be classified
1095 41	Classes of utilization
1095 42	Unaccounted for skim milk and butterfat and plant shrinkage
1095 43	Responsibility for classification of milk
1095 44	Transfers
1095 45	Computation of the skim milk and butterfat in each class
1095 46	Allocation of skim milk and butterfat classified

MINIMUM PRICES

1095 50	Basic formula price
1095 51	Class prices
1095 52	Price adjustments to handlers
1095 53	Transportation differentials to handlers
1095 54	Use of equivalent prices

APPLICATION OF PROVISIONS

1095 60	Producer-handlers
1095 61	Obligation of handlers operating a nonpool plant which is a city plant
1095 62	Plants subject to other Federal orders

DETERMINATION OF UNIFORM PRICE

1095 70	Net obligation of each handler
1095 71	Computation of uniform price

PAYMENTS

1095 80	Time and method of payment for producer milk
1095 81	Producer butterfat differential
1095 82	Location differential
1095 83	Producer-settlement fund